from the title page, and "more than one-half the present volume being new and original matter."

Turning to this original matter, it appears that Mr. ROBBINS has added four new chapters on the following topics: Office work and preparation for trial; Briefs, arguments and methods of speaking; Legal ethics, and, finally, compensations and advertising. It need scarcely be said that this original matter is not original, and no one expects that it should be; but the execution is wretched; the thought is hopelessly commonplace; the style bad, and the illustrations are not always in the best of taste, as in the text and footnote to page 203, in which a charlatan performance of HENRY CLAY is narrated as if commendable. It is doubtful if any one could derive serious profit from these chapters.

If the American additions do not add to the book, it may be supposed that Mr. HARRIS' text will be of some service to the reader. In its original form it was; but Mr. ROBBINS has laid a heavy hand upon it and marred it in what he calls a culling process.

The language of the culled portion of the English text is changed to "more intelligible expressions of the rules of advocacy as applicable to American practice," by "interpolating where the original text seemed to demand more explanation, and annotating throughout with appropriate quotations and references." In this process the charm of Mr. HARRIS' book is wholly lost, although passages of the original text protrude above the dead level of the added commonplace.

"O Bottom, thou art changed! What do I see on thee?
What do you see? You see an ass-head of your own, do you?
Bless thee, Bottom! bless thee! thou art translated."

If the reviewer shakes his head and grieves for Mr. HARRIS, the Americanizer has no misgivings as to the importance of this Treatise on American Advocacy; for does not Mr. ROBBINS say in the very last paragraph of his introduction: "We believe that the work, as thus reconstructed and revised, will become an invaluable assistant to every lawyer?"

A TREATISE ON THE SYSTEM OF EVIDENCE IN TRIALS AT COMMON LAW. By John Henry Wigmore. Boston: Little, Brown & Company 1905. Vol. IV, pp. xiii, 3185–3921.

The only portion of the law of evidence proper which remained for treatment in the fourth volume was privileged communications. These are exhaustively examined in accordance with the plan of the prior volumes. The chapter on Communications by and to Jurors, Chapter 82 deserves special mention. It is novel, complete and excellent. The others are fully up to the high standard of the entire treatise.

The topics of parol evidence, burden of proof and presumptions, the relative functions of court and jury, and judicial notice, though closely related to the law of evidence, are not really a part of it. The author, therefore, has abundant justification for dealing with them in a more cursory manner. If these matters were treated with the same detail as the main subject, the work would certainly have required six volumes instead of four, possibly more. In fact they are all dis-

posed of in two hundred and sixty pages. While no just criticism can be made upon this, it is to be hoped that Professor WIGMORE may have the time and inclination to deal with these subjects adequately in separate treatises. Certainly there is a crying need for a first-class book on Burden of Proof and Presumptions.

Mr. WIGMORE'S statement that the parol evidence rule includes all the law concerning the creation of legal acts, the formalities of their execution, and the interpretation of language (§2401) seems unjustified. The "parol evidence rule" as a name signifies merely the general principle that if a transaction has been reduced to a final statement intended by the parties or required by law to contain its terms, then prior or contemporaneous negotiations, understandings, or agreements are no part of its terms; they must be sought in the final statement alone. It is true that one must notice that the parol evidence rule does not forbid investigation as to whether a legal act has been created, whether with the proper formalities, and what is its interpretation. These questions are often confused with it. But they are outside the scope of the rule entirely.

Section 2454 draws a distinction not always appreciated. From the fact that a statute requires an act to be executed with certain formalities, for example, to be in writing, it does not necessarily follow that the act is required to be reduced to a final statement or, to use Mr. WIGMORE'S term, integrated. Unless the parties have integrated it, it may be gathered from any and all expressions that satisfy the statute as to formality.

The views expressed concerning the standard of interpretation (§ 2461 *et seq.*) are liberal and untechnical, and rightly so. Shall the meaning the language normally has, the meaning it has in the locality where it was used, or the meaning it had to the party or parties who used it, be adopted as the meaning to be determined by interpretation? In good sense certainly the last. The danger of fictitious private meanings being established by fraud is slight compared with the great danger of thwarting the intentions of the party or parties if some arbitrary standard be adopted. Professor WIGMORE would make but one limitation. In § 2467 he states that when the language is that of but one party, the sense in which he used it cannot be taken unless it is a sense in which he habitually used it. This seems doubtful. A testator leaves property to "Susan Graham." He knows nobody bearing that name. A friend named Jane Graham is usually called Susan by the testator's family. The testator, however, always addressed her and spoke of her as Jane. Would she fail to obtain the devise?

In stating the rule that declarations of intention are not admissible to aid in construction (§ 2471) no mention is made of the fact that many cases admit them when contracts are to be interpreted.[1]

The failure to discuss the history, exact meaning, and significance of Bacon's maxims as to latent and patent ambiguities seems unfortunate. The role it has played in causing unnecessary strictness in dealing with questions of interpretation and the misconceptions into

[1] Swett *v.* Shumway, 102 Mass. 365; Hebb *v.* Welch, 70 N. E. 440 (Mass.); Case Co. *v.* Soxman, 138 U. S. 439; Plant *v.* Bourne [1897] 2 Ch. 281; Bank *v.* Brigham, 60 Pac. 754 (Kan.); Maynard *v.* Render, 23 S. E. 194 (Ga.)

which it has led able courts might well have been made clear. The meager mention in § 2472 is inadequate.

The index appears rather small for so bulky a work. It is contained in seventy-five pages which are not closely printed. Some use, however, has failed to discover any omissions worth noting.

The excellence of this new treatise on evidence has already been stated in the reviews of the preceding volumes. A careful examination of the four volumes confirms the opinion that of all the books on evidence it is, everything considered, easily the best. It may be added that the publishers have done their work well. Paper, binding, type, clearness of impression, all are satisfactory. The last one hundred and fifty pages of Volume III, which is over size, might better have been put in Volume IV, which is smaller than the others.

REVIEWS TO FOLLOW:

FRENCH LAW OF EVIDENCE. O. E. Bodington. London: Stevens & Sons. 1904. pp. viii, 199.

A TREATISE ON SPECIAL SUBJECTS OF THE LAW OF REAL PROPERTY. Alfred G. Reeves. Boston: Little, Brown & Co. 1904. pp. lxv. 913.

A TREATISE ON THE LAW OF WILLS. John R. Rood. Chicago: Callaghan & Co. 1904. pp. lxvi, 635.

STREET RAILWAY REPORTS. Vol. II. Edited by Frank B. Gilbert. Albany: Matthew Bender. 1904. pp. xix, 1051.

CURRENT LAW. George Foster Longsdorf, Editor in Chief. St. Paul: Keefe-Davidson Co. 1904. Vol. I, x, 1208; Vol. II, xviii, 2195.

A BRIEF SURVEY OF EQUITY JURISDICTION. Prof. C. C. Langdell. Cambridge: The Harvard Law Review Association. 1905. pp. 303.

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pp. LAW OF RECEIVERS. W. A. Alderson. New York: Baker, Voorhis & Co. 1905. pp. lxxi, 956.

JURISDICTION AND PROCEDURE OF THE SUPREME COURT. Hannis Taylor. Rochester: Lawyers Co-operative Publishing Co. 1905. pp. lxvi, 1907.